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July 30, 2019

*By Electronic Filing*

Hon. Valerie E. Caproni  
United States District Judge  
Southern District of New York  
Thurgood Marshall United States Courthouse  
40 Foley Square  
New York, NY 10017

Re: Polaris Images Corp. v. CBS Interactive Inc., 19-cv-3670

Dear Judge Caproni:

We represent Defendant CBS Interactive Inc. ("CBSi") in the above-captioned action.

By Order dated May 2, 2019 (Doc. No. 6), the Court referred this copyright infringement case to mediation, ordered Plaintiff Polaris Images Corp. ("Polaris") to file a proof of service three days after service was effected, produce to CBSi various documents regarding licensing history within fourteen days after service, and stayed CBSi's deadline to file an answer until after completion of the mediation.

Despite the Court's clear instructions, Polaris has violated each part of the Court's Order. On July 18, more than two months after the Court's Order, Polaris finally got around to filing the proof of service effected on April 30, 2019, but still has not produced to CBSi the licensing documents, nor taken steps to initiate the mediation. As Polaris has not commenced mediation, it is CBSi's understanding that its obligation to answer remains stayed pursuant to the Court's Order.

CBSi is ready to participate in the mediation ordered by the Court, or to defend itself in this case. Given the amount of time that has passed since the Court's Order, however, as well as Polaris' failure to take actions required by that Order, it may be appropriate for the Court to dismiss this case for failure to prosecute.<sup>1</sup>

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<sup>1</sup> This is not the first time counsel for Polaris has failed to obey mediation orders issued by Judges in this District. *Rice v. NBC Universal Media LLC*, No. 19-CV-447 (JMF), 2019

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Respectfully,

A handwritten signature in black ink, appearing to read 'R. Penchina', with a long horizontal flourish extending to the right.

Robert Penchina

Cc: All Counsel of Record

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U.S. Dist. LEXIS 114690, at \*13 (S.D.N.Y. July 10, 2019) (chastising plaintiff for failing “to comply with the Court’s mediation order for several months”).